

of Columbia, to be U.S. District Judge for the District of Columbia?

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. UDALL) is necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico (Mr. UDALL) would vote "yea."

Mr. KYL. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. INHOFE) and the Senator from Nevada (Mr. ENSIGN).

The PRESIDING OFFICER (Mr. BENNET). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 45 Ex.]

YEAS—97

|            |              |             |
|------------|--------------|-------------|
| Akaka      | Franken      | Moran       |
| Alexander  | Gillibrand   | Murkowski   |
| Ayotte     | Graham       | Murray      |
| Barrasso   | Grassley     | Nelson (NE) |
| Baucus     | Hagan        | Nelson (FL) |
| Begich     | Harkin       | Paul        |
| Bennet     | Hatch        | Portman     |
| Bingaman   | Hoeven       | Pryor       |
| Blumenthal | Hutchison    | Reed        |
| Blunt      | Inouye       | Reid        |
| Boozman    | Isakson      | Risch       |
| Boxer      | Johanns      | Roberts     |
| Brown (MA) | Johnson (SD) | Rockefeller |
| Brown (OH) | Johnson (WI) | Rubio       |
| Burr       | Kerry        | Sanders     |
| Cantwell   | Kirk         | Schumer     |
| Cardin     | Klobuchar    | Sessions    |
| Carper     | Kohl         | Shaheen     |
| Casey      | Kyl          | Shelby      |
| Chambliss  | Landrieu     | Snowe       |
| Coats      | Lautenberg   | Stabenow    |
| Coburn     | Leahy        | Tester      |
| Cochran    | Lee          | Thune       |
| Collins    | Levin        | Toomey      |
| Conrad     | Lieberman    | Udall (CO)  |
| Coons      | Lugar        | Vitter      |
| Corker     | Manchin      | Warner      |
| Cornyn     | McCain       | Webb        |
| Crapo      | McCaskey     | Whitehouse  |
| DeMint     | McConnell    | Wicker      |
| Durbin     | Menendez     | Wyden       |
| Enzi       | Merkley      |             |
| Feinstein  | Mikulski     |             |

NOT VOTING—3

Ensign Inhofe Udall (NM)

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table. The President will be immediately notified of the Senate's action.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

The Senator from Massachusetts.

## MORNING BUSINESS

Mr. BROWN of Massachusetts. Mr. President, I ask unanimous consent the Senate proceed to a period of morning business, with Senators permitted to speak up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SBIR/STTR

Mr. BROWN of Massachusetts. Mr. President, I rise in support, strong sup-

port of the SBIR bill. As many of you know, the SBIR bill and the STTR Programs provide vital resources to small businesses, not only in Massachusetts but throughout the country. This reauthorization is incredibly important to not only businesses in my State but businesses in everybody's State.

This compromise bill has been under development and negotiation long before I got here. I applaud Senators LANDRIEU and SNOWE, our chair and ranking member on the Small Business Committee, for their persistence in pushing this bill through. As a matter of fact, I have two amendments that are in the bill that is before us now. I will be offering, not today but in the near future, an amendment which I am about to talk about.

As a small business owner myself for many years, and a longstanding member of many Chambers of Commerce, I believe the Massachusetts small businesses and businesses throughout this country are the economic engine that will help get us out of this economic slowdown we are in. They have the potential to grow, to expand and hire, unlike many businesses throughout the country. Massachusetts is widely regarded as the center for innovation in biotechnology. We are a small State but we have received the most SBIR awards, only after California. That goes to show how important our State is when it comes to creating small businesses. The success of the SBIR Program serves as a reminder that government can play a role in the business community. But it also needs to know when to step out of the way and allow businesses to grow and actually create jobs.

I want to speak about an amendment I filed, amendment No. 212. It is based on S. 164, the Withholding Tax Relief Act of 2011, which enjoys bipartisan support and is critically needed now. The ranking member of the Small Business Committee, Senator SNOWE, is a cosponsor. I am looking forward to getting many other cosponsors and working very closely with the chair on this timely piece of legislation.

We need once and for all to repeal an onerous and costly unfunded mandate that directly affects businesses, not only in my State but throughout the country. This is a jobs amendment, plain and simple. It would repeal part of our Tax Code that absolutely promises to kill jobs, jobs that these young people up here could someday have. If we do not act soon, section 3042(t) would require, beginning January 12, Federal, State, and local governments to withhold 3 percent of nearly all contract payments made to private companies as well as Medicare payments, farm payments, and certain grants. It is an arbitrary tax and it is nearly impossible to actually implement it. It is one of the things we have done that makes absolutely no sense. It has been delayed many times.

The Government Withholding Relief Coalition, a coalition of more than 100

members encompassing a cross section of America, has estimated the combined total 5-year cost to the State and Federal Government of implementing this legislation could be as high as \$75 billion.

That makes a lot of sense? That \$75 billion is coming out of those coffers at a time we can least afford it, and it is estimated only to bring in about \$7 billion over that same time period. It makes absolutely no sense. It is absurd. Any tax that costs more to implement than it actually brings in makes no sense at all. I hope with your leadership and many other Senators' leadership on this issue we can attack these bad laws that are about to click in. It should be repealed immediately. As a matter of fact, last week I received a letter from Massachusetts State Secretary of Finance Jay Gonzalez, warning Congress of the inevitable threat to small businesses' ability to survive in this tough economic climate if we allow the continuation of what I consider a stealth tax. We cannot discuss the health of small businesses on the floor without acknowledging that these very same small businesses we aim to help with the SBIR Program, the bill before us now, will be suffocated by this 3-percent withholding tax. For some businesses it may be the entire net profit of what they make per year.

I ask unanimous consent to have the letter from Secretary Gonzales printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE,

Boston, MA, March 11, 2011.

Hon. MAX BAUCUS,  
Chairman, Committee on Finance, U.S. Senate,  
Washington, DC.

Hon. ORRIN G. HATCH,  
Ranking Member, Committee on Finance, U.S.  
Senate, Washington, DC.

Hon. DAVE CAMP,  
Chairman, Committee on Ways and Means,  
House of Representatives, Washington, DC.

Hon. SANDER LEVIN,  
Ranking Member, Committee on Ways and  
Means, House of Representatives, Wash-  
ington, DC.

CHAIRMAN BAUCUS, RANKING MEMBER HATCH, CHAIRMAN CAMP, AND RANKING MEMBER LEVIN: As Secretary for the Executive Office of Administration and Finance for the Commonwealth of Massachusetts, I am writing to express my strong support for legislation to repeal Section 511 of the Tax Increase Prevention and Reconciliation Act (TIPRA) of 2006. Section 511 amends the Internal Revenue Code by adding a provision mandating that government entities with greater than \$100 million in annual spending withhold three percent on payments made for most goods and services, including Medicare payments and certain grants. That three percent is allocated toward the vendor's tax liability. S. 89 and S. 164, currently pending in the Senate, and H.R. 674, currently pending in the House, would eliminate Section 511.

As a state finance official, I strongly support enhanced transparency and tax compliance; however, I am very concerned about the impact of Section 511 on the Commonwealth of Massachusetts' accounting and

procurement systems. Specifically, compliance with Section 511 will require that the Commonwealth devote personnel and other resources to overseeing collection and remittance of the fees, thus causing administrative and financial burdens. The Commonwealth and its municipalities likely will face increased costs to purchase affected goods and services, as vendors can be expected to raise prices to recoup their own added costs or simply refrain from doing business with government purchasers. The negative impact of Section 511 may be particularly acute for women and minority owned businesses as well as small businesses, since it will affect cash flow, their ability to raise capital and to pay subcontractors.

I strongly encourage you to support repeal of Section 511 and to visit the Government Withholding Relief Coalition's website at [www.withholdingrelief.com](http://www.withholdingrelief.com) to see the number of government associations and businesses that support abolishing this mandate.

Sincerely,

JAY GONZALEZ,  
Secretary.

Mr. BROWN of Massachusetts. The Department of Defense alone has estimated this provision will cost about \$17 billion to comply with over the first 5 years. Unfortunately, there are many other provisions and reasons why this provision should be repealed as soon as possible. At a time when State and local governments are under extreme fiscal and financial stress, why? I don't get it. Why would we actually start to put in and enforce another unfunded, costly mandate on them to recover minimal funds for the Federal Treasury? This is a question of the Federal Government seeking more funds to pay its bills. Only in Washington—and I have been here a little over a year, very similar to what the Presiding Officer has—only in Washington can they try to convey that something like this is good when they actually spend \$10 of everybody's money, nearly, to recoup a dollar. It makes absolutely no sense to me at all.

Many businesses that contract with the government will simply pass this provision on, as we know, back to the government in the form of higher bids on contracts. So having a bid on a contract here, when this particular tax is implemented—it is going to be here and is ultimately going to cost every single one of us more money to do the same thing.

I listen to the administration, I listen to all the political pundits, I listen to everybody talk about the fact that we need to get our fiscal and financial house in order. We are in trouble fiscally. This country, if we do not do something quickly, is going to be in deep trouble. Here we are. We have an unfunded mandate, something that is going to add to the cost of doing business, and here we are. Are we going to take it up and vote on it? I hope we do. I am looking forward to the bipartisan leadership from the Presiding Officer and others on this very important issue.

Many businesses that contract with the government, as I said, will merely pass this on. It will crush them and restrict a critical cashflow and discour-

age them from participating in government contracts. They will go other places.

Members of the construction industry are also worried that the provision will tax away all of their anticipated profit on government contracts, hence diminishing competition and actually raising costs to the government at a time we cannot afford it.

This provision passed in 2005, long before we got here—but we, as the new breed of Senators, recognize we need to get our house in order. There is a reason the implementation of this has been delayed over and over. Everyone knows it can never go into effect. We will be back on the floor later this session, because we need to repeal this tax. We can do it in the next weeks. I appreciate the effort of the majority leader to now include us in the amendment process so we can actually be part of the process and come up with new ideas, from new people, to look at things in a different way and actually solve problems. That is what this amendment offers. I plan to offer it. I welcome everybody's support.

Before I conclude, I want to wish everybody a happy St. Patrick's Day and I appreciate your listening.

I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JOHANNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### NATIONAL AGRICULTURE WEEK

Mr. JOHANNIS. Mr. President, I rise today to recognize an industry that has helped shape our country since the days of our Founding Fathers.

This industry is part of the very fabric of my home State of Nebraska and of many States. It drives our economy, fosters ingenuity, and preserves the value of a handshake in our society. I am speaking about agriculture, an industry near and dear to this farm boy's heart.

What better time to celebrate the remarkable advances in agriculture than National Ag Week.

It is not because of my roots on a farm, nor my time as Secretary of Agriculture that I am inspired to speak today. It is because of the remarkable men and women who rise before the sun each morning to feed the world. They provide safe, abundant, and affordable food, fiber, and fuel. They are stewards of our natural resources and drivers of innovation.

More than 2 million farmers and ranchers contribute more than \$300 billion to the U.S. economy each year. In Nebraska alone, agriculture contributes over \$15 billion to the State's economy. Our leading commodities in-

clude: cattle, corn, soybeans, hogs, wheat, dairy products, and the list goes on and on.

It is estimated that each American farmer feeds more than 144 people, a dramatic increase from just 25 people per farmer in the 1960s. And, as our population and the global population continue to grow, demand for our food, fiber, and fuel products is growing, not just at home but around the globe. In fact, USDA projects that agriculture exports will set a new record, exceeding \$135 billion this year.

It is estimated that every dollar in agriculture exports generates \$1.36 in additional economic activities, including transportation, warehousing, and financing.

Nebraska's \$4.8 billion in agricultural exports last year generates an additional \$6.5 billion in economic activity. Now that is a big deal, particularly during these struggling economic times.

However, the demands facing our Nation's farmers and ranchers are daunting.

We should ensure the government is not adding unnecessary regulatory and paperwork burdens to their load.

Instead, we must empower our Nation's farmers and ranchers to continue to be among the most competitive, productive, and efficient in the world.

We should be actively promoting U.S. agriculture by enhancing renewable fuels; ensuring regulations are transparent and science-based; and creating international opportunities through enhanced trade agreements.

This last one should be easy, but this administration has made it difficult.

Congress has been waiting on the President to submit three free trade agreements, Colombia, Panama, and Korea for more than 2 years now.

It is estimated that this cumulative delay has cost almost \$2.5 billion in lost agriculture exports per year.

And while we have been hobbled on the sidelines, our competitors, including, Canada, Brazil, Argentina, and the EU, have been full speed ahead on trade agreements that put U.S. agriculture at a disadvantage.

Instead of a maintaining market share and a preference for Nebraska grown wheat, corn, and beef, consumers in Colombia, Panama, and Korea could turn to our competitors.

That is because their trade agreements have lowered tariffs while ours collect dust on a White House shelf.

And once market share is lost by the United States, it is difficult to regain.

I have talked to colleagues on both sides of the aisle who understand this reality.

In fact, the chairman of the committee that oversees trade could not have been more clear in recent comments. Senator Max Baucus said:

"The Time Is Here. The Time Is Now. We're Losing Market Share Hand Over Fist."

I could not agree more.